



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0385; FRL-9902-98-Region 4]

Approval and Promulgation of Implementation Plans;

Florida; Approval of Revision to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a change to the Florida State Implementation Plan (SIP) for the State of Florida. The change removes from the Florida SIP a provision entitled “Synthetic Organic Fiber Production.” EPA has determined that this provision was erroneously incorporated into the SIP. Therefore, EPA is taking final action to remove this rule from the federally-approved Florida SIP because the rule is not related to the attainment and maintenance of the national ambient air quality standards (NAAQS).

DATES: This rule will be effective on [insert 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0385. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9352. Ms. Bradley can also be reached via electronic mail at bradley.twunjala@epa.gov.

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I. This Action

EPA determined that rule 62-296.413, Florida Administrative Code (F.A.C.) entitled “Synthetic Organic Fiber Production” was inadvertently incorporated into the Florida SIP on June 16, 1999 (64 FR 32346). Therefore, EPA is taking final action to remove rule 62-296.413, F.A.C. from the federally-approved Florida SIP pursuant to section 110(k)(6)¹ of the Clean Air Act (CAA or Act) and to codify this deletion by revising the appropriate paragraph under 40 CFR part 52, subpart K, section 52.520(c). EPA proposed approval of this correction on June 13, 2013. *See* 78 FR 35599. Comments on the proposed rulemaking were due on or before July 15, 2013. No comments, adverse or otherwise, were received on EPA’s June 13, 2013, proposed rulemaking. A summary of the background for today’s final action is provided below. For additional information concerning the rationale for today’s final action refer to EPA’s June 13, 2013, proposed rulemaking. *See* 78 FR 35599.

II. Background

On December 21, 1994, and April 15, 1996, the State of Florida through the Florida Department of Environmental Protection provided to EPA SIP submissions which included

¹ Section 110(k)(6) of the Act provides that, whenever the Administrator determines that the Administrator’s action approving, disapproving, or promulgating any plan or plan revision was in error, the Administrator may in the same manner as the approval, disapproval or promulgation revise such action as appropriate without requiring further submission from the State. Such determination and the basis thereof must be provided to the state and public.

miscellaneous revisions and the recodification of F.A.C. Rule 62-296.413, F.A.C.,² was part of Florida's recodification and was included in these State submittals among other changes; however, it was never officially submitted for incorporation into the SIP.³ When EPA took action on June 16, 1999 (64 FR 32346) to approve the recodification and miscellaneous changes and also to revise the format of 40 CFR part 52 for materials submitted by Florida that are incorporated by reference into the SIP, EPA inadvertently incorporated rule 62-296.413, F.A.C., into the regulatory text at 40 CFR part 52, subpart K, section 52.520. EPA has determined that approval of rule 62-296.413, F.A.C., into the Florida SIP was an error, and is, therefore, taking final action to remove this rule from the federally-approved Florida SIP (pursuant to section 110(k)(6) of the CAA) because the rule is not related to the attainment and maintenance of the NAAQS.

III. Final Action

For the reasons stated above, EPA is taking final action to remove rule 62-296.413, F.A.C., from the federally-approved Florida SIP pursuant to section 110(k)(6) of the CAA and to codify this deletion by revising the appropriate paragraph under 40 CFR part 52, subpart K, section 52.520(c).

² This state rule was originally numbered subsection 17-2.600(13), and was adopted with a state effective date of July 9, 1989, for the sole purpose of controlling acrylonitrile emissions from synthetic organic fiber production facilities in northwest Florida. The rule was only concerned with emissions of toxic air pollutants and not attainment or maintenance of any NAAQS. The rule was in an April 15, 1996, SIP submission along with all other rules that had been simultaneously amended. However, it was not submitted for EPA's approval and incorporation into the SIP.

³ EPA's records indicate that a November 23, 1992, SIP revision from Florida was approved on October 20, 1994 (59 FR 52916). However, the November 23, 1992, SIP did not include a revision to incorporate the rule entitled "Synthetic Organic Fiber Production," 62-296.413, F.A.C., into the SIP.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 5, 2013.

Beverly H. Banister,
Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K – Florida

2. Section 52.520(c) is amended by removing the entry for “62-296.413” under Chapter 62-296 “Stationary Sources – Emission Standards.”

[FR Doc. 2013-27443 Filed 11/15/2013 at 8:45 am; Publication Date: 11/18/2013]